

# In the Court of Appeals of the State of Alaska

**De Anthony Malik Harris,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-13950**

## **Order**

Motion for Release Prior to Judgment

Date of Order: **4/21/2022**

Trial Court Case No. **3AN-16-09996CR**

Before: Allard, Chief Judge, and Wollenberg and Harbison, Judges.

De Anthony Malik Harris appeals from the bail order issued in this case on January 4, 2022. This is the second time this case is before us on a bail appeal.

As we noted in our last order, Harris is charged, as principal or accomplice, with several counts of first- and second-degree murder and one count of first-degree robbery in connection with the shooting deaths of Christopher and Danielle Brooks in 2016.<sup>1</sup> According to the complaint, Harris and three other men entered the Brooks's residence with shirts covering their faces, intending to steal drugs and money. During a struggle with Christopher Brooks, one of the men shot and killed the couple while their young child was in the home.<sup>2</sup>

In his first bail appeal, Harris challenged the superior court's rejection of one of his two proposed third-party custodians. (The court approved the other proposed custodian.) Harris also challenged the superior court's refusal to reconsider his monetary bail amount — which had been set at a \$250,000 cash performance bond and a \$250,000

---

<sup>1</sup> See *Harris v. State*, 2021 WL 5029385, at \*1 (Alaska App. Oct. 28, 2021) (unpublished bail order).

<sup>2</sup> *Id.*

cash or corporate appearance bond. Harris had requested a reduction to a \$5,000 cash performance bond, plus an unsecured appearance bond.

Following our review of the record, we remanded Harris’s case to the superior court for reconsideration of the proposed custodian.<sup>3</sup> Because a court must re-assess monetary bail in light of the bail conditions as a whole upon approval of an appropriate third-party custodian, we did not directly address Harris’s arguments regarding his monetary bail.<sup>4</sup>

However, we directed the court to re-assess Harris’s monetary proposal on remand.<sup>5</sup> We noted that, in evaluating whether Harris’s bail conditions (including any monetary conditions) were the “least restrictive” means to reasonably ensure his appearance and protection of the community, the court was required to consider his ability to pay.<sup>6</sup> We further stated that if, on remand, “the court determine[d] that the monetary bail should be set above [Harris’s] ability to pay, the court [was required to] provide case-specific reasons for why this amount of monetary bail [was] necessary in addition to whatever other supervision or protective measures” were in place.<sup>7</sup>

On remand, the court approved the previously denied third-party custodian. Additionally, the court heard arguments from both parties about the proper amount of

---

<sup>3</sup> *See id.* at \*2.

<sup>4</sup> *Id.* at \*3.

<sup>5</sup> *Id.* at \*3-4. We noted that the bail hearing under appeal appeared to have been Harris’s first bail hearing, and thus, the court was required to independently assess Harris’s monetary bail. *Id.* at \*3 (citing *Torgerson v. State*, 444 P.3d 235, 238 (Alaska App. 2019)).

<sup>6</sup> *Id.* (citing AS 12.30.011(b)-(c)).

<sup>7</sup> *Id.*

monetary bail. At the conclusion of the hearing, the court stated that it would take the question of monetary bail under advisement.

The court subsequently issued a written order addressing Harris’s monetary bail request. The court acknowledged, based on the testimony of Harris and his family members at the bail hearing, that imposing a bail higher than the \$5,000 cash performance bond proposed by Harris appeared to be outside his ability to pay.<sup>8</sup> But the court found that Harris’s ability to pay was outweighed by the nature and circumstances of the charges and the strength of the evidence against Harris.<sup>9</sup> In particular, the court found that the information before it indicated that the shootings resulted from a planned robbery in which Harris was alleged to have brought a firearm — and that the shootings occurred while the victims’ young child was in the residence. The court found that Harris’s involvement was strongly supported by jail phone calls in which he admitted he was at the residence when the crimes occurred.

The court acknowledged that Harris was nineteen years old at the time of the shootings and has no criminal record. The court therefore significantly reduced Harris’s bail, from a \$250,000 cash performance bond and a \$250,000 cash or corporate appearance bond to a \$100,000 cash performance bond and a \$50,000 cash or corporate appearance bond. But ultimately, the court concluded that, even in light of the bail conditions as a whole, a high monetary bail was necessary to reasonably ensure Harris’s appearance and the protection of the community.

---

<sup>8</sup> See AS 12.30.011(c)(8) (including the “assets available to the [defendant] to meet monetary conditions of release” as among the factors a court must consider when determining conditions of release).

<sup>9</sup> See AS 12.30.011(c)(1)-(2) (setting out “the nature and circumstances of the offense charged” and “the weight of the evidence against the [defendant]” as two factors the court must consider when determining conditions of release).

Harris again appeals, challenging solely the monetary bail amount. He does not dispute any of the superior court’s factual findings. Rather, Harris argues that the court did not “properly evaluate the amount of monetary bail in light of the income and assets available to Mr. Harris and his family members.” But Harris’s argument is largely conclusory, and he does not specifically cite any legal error by the court.<sup>10</sup>

To the extent Harris is arguing that the court failed to account for the assets available to Harris and his family, the record shows that the court did take testimony on this issue and nonetheless found that a figure outside of Harris’s requested amount was necessary to fulfill the dual purposes of bail. To the extent Harris is arguing that the court erred in setting the particular amount of monetary bail, we are unable to find that the court abused its discretion. The determination of appropriate bail conditions is in large measure a discretionary function of the trial court. Thus, absent a legal error, we review a trial court’s decision to impose a particular bail amount for an abuse of discretion.<sup>11</sup> Under this standard, an appellate court must uphold the trial court’s

---

<sup>10</sup> Harris compares his case to our previous unpublished bail decisions in *West v. State*, where we held that further inquiry into the financial resources available to West was required on remand. See *West v. State*, 2014 WL 12973941 (Alaska App. Aug. 18, 2014) (unpublished bail order); *West v. State*, 2014 WL 12969638 (Alaska App. Sept. 2, 2014) (unpublished bail order). In particular, we noted that the superior court’s justification for imposing a \$500,000 cash or corporate bond on West, who was charged with second-degree murder, rested on the as-yet “untested assumption that this amount will impose a significant financial strain on West and her family, but that it will not be impossible to meet[.]” *West*, 2014 WL 12969638, at \*2. But *West* is distinguishable from this case because, at this point, the superior court *has* inquired into the assets available to Harris to meet the monetary conditions of release.

<sup>11</sup> AS 12.30.030(a).

*Harris v. State*, File No. A-13950  
April 21, 2022 - p. 5

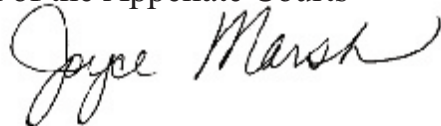
decision unless it was “arbitrary, capricious, manifestly unreasonable, or stemmed from an improper motive.”<sup>12</sup>

While the monetary bail amount is on the high end and other judges might reasonably have imposed a lower bail amount in light of the other protective measures in place, we cannot find that the bail imposed in this double homicide case is manifestly unreasonable. However, should Harris have new information that would warrant further review of his bail conditions, we would encourage the superior court to re-evaluate the need for the precise monetary amount in light of the other conditions imposed and any change in circumstances.

The superior court’s bail order is **AFFIRMED**.

Entered at the direction of the Court.

Clerk of the Appellate Courts



---

Joyce Marsh, Deputy Clerk

cc: Court of Appeals Judges  
Distribution:

Email:  
Weiner, Jason A., Court under Rule 12  
Bartnitskaia, Lyubov K

---

<sup>12</sup> See *Wahl v. State*, 441 P.3d 424, 430 (Alaska 2019) (internal quotation marks and citations omitted).